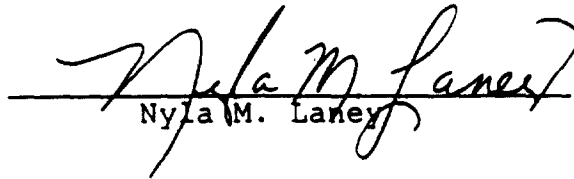


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**ATTACHMENT 3**

BEFORE  
THE PUBLIC SERVICE COMMISSION  
OF SOUTH CAROLINA  
DOCKET NO. 97-101-C- ORDER NO. 97-640

July 31, 1997

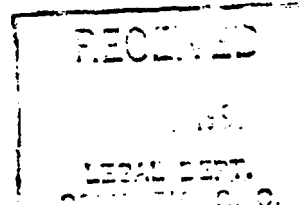
— AUSTIN  
— CULPEPPER  
— ~~DODSON-BUS~~  
— ELLEBERG  
— LIGHTSEY  
— MORTON  
— GUY  
— RANKIN  
— SAMS  
— SDG  
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In RE: Entry of BellSouth       ) ORDER ADDRESSING STATEMENT  
Telecommunications, Inc.,       ) AND COMPLIANCE WITH SECTION  
into InterLATA Toll Market     ) 271 OF THE TELECOMMUNICATIONS  
                                      ) ACT OF 1996

I. INTRODUCTION

This matter comes before the Public Service Commission of South Carolina (the "Commission") in connection with (1) a request by BellSouth Telecommunications, Inc. ("BST") under Section 252(f) of the Telecommunications Act of 1996 (the "Act") that the Commission approve BST's Statement of Generally Available Terms and Conditions (the "Statement"); and (2) the Commission's review of BST's preapplication compliance with Section 271 of the Act.

By its request, BST asks the Commission (1) to issue an order under Section 252(f) approving its Statement and; (2) in its consultative role under Section 271(d)(2)(B), to find that BST's Statement satisfies the 14-point competitive checklist in 47 U.S.C. § 271(c)(2)(B) and that BellSouth Long Distance, Inc.'s



("BSLD") entry into the interLATA long distance market in South Carolina is in the public interest.

In Order No. 97-223, the Commission established a docket to consider BST's entry into the interLATA market pursuant to Section 271 of the Act. Pursuant to the this Order, BST filed on April 1, 1997, a Notice of Intent to File An Application Under Section 271 of the Act with the Federal Communications Commission for authority to provide in region InterLATA services in South Carolina on or after August 1, 1997. In connection with and in support of its notice, BST filed the testimony of Alphonso Varner and Robert Scheye. BSLD filed the testimony of James C. Harralson, Dr. Michael J. Raimondi, Dr. Frank Hefner and Dr. William E. Taylor. Petitions to Intervene were filed by Sprint Communications Co., L.P. ("Sprint"), LCI International, Inc. ("LCI"), South Carolina Cable Television Association ("SCCTA"), MCI Telecommunications Corporation ("MCI"), Communication Workers of America, ("CWA"), AT&T Communications of the Southern States, Inc. ("AT&T"), The Consumer Advocate for the State of South Carolina ("Consumer Advocate"), American Communications Services Inc. ("ACSI"), South Carolina Competitive Carriers Association ("SCCCA"), and South Carolina Telephone Coalition ("SCTC"). In Order No. 97-465, the Commission denied the petition of Vanguard Cellular Systems, Inc. to intervene out of time. On May 30, 1997, BST filed its statement of Generally Available Terms and Conditions ("Statement" or "SGAT"). In Order No. 97-530, the

Commission denied MCI's Petition for a Declaratory Order stating that Section 271(d)(2)(B) of the Act, (Track "B") was unavailable to BST and that BST could not proceed under Section 271 (d)(2)(A) of the Act (Track "A"). In Order No. 97-551, the Commission held that BSLD was a party of record to this proceeding with the right to cross-examine witnesses for all parties with the exception of BST witnesses.

A public hearing in this docket was held in the Commission's hearing room, beginning on July 7, 1997, with the Honorable Guy Butler presiding. BST was represented by Harry M. Lightsey, III, William F. Austin, William J. Ellenberg, II, and Edward L. Rankin, III. BST presented the testimony of Alphonso Varner, Gloria Calhoun, William Stacy, Keith Milner, Jane Sosebee and Robert Scheye. BSLD was represented by Dwight F. Drake and Kevin A. Hall. BSLD presented the testimony of James G. Harralson, Dr. Mike J. Raimondi, Dr. Frank Hefner, and Dr. William E. Taylor.

Sprint was represented by William R. Atkinson and Darra W. Cothran. Sprint presented the testimony of Melissa Closz and David Stahly. LCI International was represented by Frank R. Ellerbee, III. LCI presented no witnesses. MCI was represented by John M. S. Hoefer and Marsha A. Ward. AT&T Communications was represented by Francis P. Mood, Kenneth McNeely, Steve Matthews and Michael Hopkins. AT&T presented the testimony of John Hamman and Jay Bradbury. MCI and AT&T jointly presented the testimony of Don J. Wood and Dr. Thomas R. Beard. The SCCTA was

represented by Mitchell Willoughby and Craig Collins. SCCTA presented no witnesses. The CWA was represented by Herbert Buhl. The CWA presented the testimony of Jerry D. Keene. The Consumer Advocate was represented by Elliott F. Elam. The Consumer Advocate presented the testimony of Allen G. Buckalew. ACSI was represented by Russell B. Shetterly, Jr. ACSI presented the testimony of James C. Falvey. Mr. Falvey adopted the pre-filed testimony of Riley M. Murphy. The SCTC was represented by John Bowen. SCTC presented no witnesses. The SCCCA was represented by Frank R. Ellerbee, III. AT&T, SCCCA & MCI jointly presented the testimony of Joseph Gillan. The Commission's Staff was represented by F. David Butler.

## II. SUMMARY OF COMMISSION'S FINDINGS

As discussed below in more detail, the Commission finds that BST's Statement makes available to competitive local exchange carriers ("CLECs") in South Carolina each of the functions, capabilities, and services that the Act requires in order to allow them to enter the local exchange market. These functions, capabilities and services--and their associated rates--that BST must make available pursuant to Sections 251 and 252(d) of the Act are identical to the items contained in the 14-point competitive checklist in Section 271. Therefore, in finding that BST's Statement, as modified, satisfies BST's obligations under Sections 251 and 252(d), the Commission simultaneously concludes that the Statement meets the competitive checklist in Section

271(c)(2)(B). On July 18, 1997, the United States Court of Appeals for the Eighth Judicial Circuit released its opinion reviewing the interconnection rules of the FCC. See Iowa Utilities Board v. FCC, Order No. 96-3321 (July 18, 1997). As a result of the developments in this area and the possibility of further changes, the Commission finds that language should be added to the Statement which provides that the Statement will be subject to revision to the extent necessary to comply with any final legislative, regulatory or judicial orders or rules that affect the rights and obligations created by the Statement. Further, the Commission finds that BSLD's entry into the interLATA market in South Carolina will be in the public interest. Thus, when consulted by the Federal Communications Commission ("FCC") upon BellSouth's application for authority to enter the interLATA market in South Carolina, the Commission will advise the FCC that BST is in compliance with the requirements of the competitive checklist and that BSLD's entry into the interLATA market is in the public interest.

The Act requires only that BST make available the functions, capabilities and services in compliance with Section 251 and 252(d); it does not require that they be implemented on any particular scale or in any particular quantity. Although not all of the functions, capabilities and services in the Statement have been requested by CLECs for use in South Carolina, there is ample evidence in this record that BST has actually provided each item

described in the 14-point competitive checklist in its nine-state region. BST has further demonstrated that it is functionally able to provide the same items in South Carolina when ordered by a CLEC.

The Commission approves BST's Statement, as modified, so that BSLD may take the first step in the process it must follow to obtain interLATA authority--the filing of an application with the FCC. There is no serious dispute that BSLD's entry into the interLATA market in South Carolina will bring significant consumer benefits to that market. BSLD testified that it has filed a proposed tariff with initial basic MTS rates will be at least 5% lower than the corresponding rates of the largest interexchange carrier. The Commission reasonably concludes that long distance competitors will be compelled to respond with lower rates of their own.

Moreover, BST's entry will release the interexchange carriers from the current prohibition under the Act against the joint packaging of local and long distance service. BellSouth is also required under the Act to implement 1+ intraLATA toll dialing simultaneously with its entry into interLATA long distance. These requirements will free all competitors in South Carolina to finally offer the simplified "one-stop" shopping that customers want. BSLD's entry into the interLATA market will give BSLD's customers the same opportunity as customers of other South Carolina local telephone companies (i.e., GTE in Myrtle Beach and



Sumter; Sprint-United in Beaufort and Greenwood; Rock Hill Telephone Co. in Rock Hill and York) to choose one provider for all their telecommunications needs.

Finally, allowing BST entry into the interLATA market in South Carolina will provide appropriate incentives for the major competitive providers of local exchange service to begin construction of facilities-based networks of their own and to encourage the construction of facilities based networks by others.

The Commission has carefully considered the numerous claims and concerns raised by the Intervenor in this proceeding both in opposition to approval of the Statement and to a finding by this Commission that BSLD entry into the interLATA market will be in the public interest. In arguing that BSLD entry into the interLATA market is premature, Intervenor raise concerns consisting of (1) alleged requirements for approval of BST's Statement that are in addition to the statutory requirements for checklist compliance; (2) policy and legal arguments already litigated and resolved by this Commission; and (3) economic arguments already heard by Congress and resolved by the unambiguous provisions of the Act, which requires only that the local market be open to competition and not subject to any particular degree of actual competition.

The local market is open to competition once the incumbent LEC has made the functions, capabilities and services described

in Section 251 (and summarized in the competitive checklist under Section 271) available to competitors. This docket is not the place to reargue policy issues regarding the appropriate circumstances under which Bell entry into the interLATA market should proceed. Congress has spoken to this issue. Rather, the Commission finds that it should use this docket as the vehicle to move forward as expeditiously as possible to attain the ultimate goal of the Act--competition in all telecommunications markets in South Carolina. Accordingly, as set forth in more detail below, the Commission approves BST's Statement, as modified, and finds that BSLD's entry into the interLATA market in South Carolina is in the public interest.

### III. SUMMARY OF TESTIMONY

#### Al Varner:

BST presented the testimony of Alphonso Varner, Senior Director for Regulatory Policy & Planning for BST. Mr. Varner provided an overview of the requirements BST must meet to achieve in region interLATA relief. Specifically, Mr. Varner defined the 14 point checklist requirements under Section 271(c)(2)(b) of the Act and explained how BST's Statement satisfies all the requirements of the checklist. Witness Varner also summarized why BellSouth's entry into the interLATA market is beneficial for the consumers of South Carolina and is in the public interest. Mr. Varner emphasized that BellSouth's entry into the intraLATA market would accelerate competition in the local market.

Moreover, Mr. Varner emphasized that BellSouth's obligations to keep the local market open do not disappear once BellSouth is granted interLATA relief. Instead, procedural safeguards contained in the Act, FCC Orders promulgated thereunder, and this Commission's rules and regulations would continue to safeguard and govern competition in the local market.

Gloria Calhoun:

Ms. Calhoun, the Director of Regulatory Planning for BST testified about the electronic interfaces BST has made available for use by competing local exchange carriers (CLECS). Ms. Calhoun testified as to how BST provides non-discriminatory access to its Operational Support Systems ("OSS") consistent with, and as required by, the FCC orders promulgated under the 1996 Act. Ms. Calhoun testified that BST provides to the CLECs, electronic interfaces for the pre-ordering, ordering, provisioning, maintenance and repair and billing functions that provide information in substantially the same time and manner that BST provides such information to personnel supporting its retail customers. In summary, Ms. Calhoun testified that BST offers pre-ordering through the Local Exchange Navigation System ("LENS") interface, ordering and provisioning through the (Electronic Data Interchange ("EDI"), Exchange Access Control and Tracking System ("EXACT") and LENS interfaces, maintenance and repair through the CLEC Trouble Analysis Facilitation Interface ("TAFI") interface and billing through its CABS billing process.

Ms. Calhoun testified that these interfaces provided CLECs with information on the same basis as, or in many instances better than, such information is available to BellSouth personnel supporting BellSouth retail operations. Ms. Calhoun also testified that most unbundled network elements ("UNES") are available through the industry standard interfaces of EDI and EXACT, depending on the particular UNE, and through the LENS interface. Ms. Calhoun testified that BST's electronic interfaces meet or exceed all FCC requirements. Further, Ms. Calhoun testified that BST is building customized interfaces under its interconnection agreements and is continuing to support its interfaces indirect response to CLEC comments and suggestions. However, BST's willingness to go beyond the requirements of the Act does not impugn the fact that BellSouth has made available in South Carolina interfaces that comply with the Act and the requirements of the FCC.

Jane Sosebee:

Ms. Sosebee testified that she is employed by BellSouth Business Systems as a Sales Manager in Greenville, South Carolina. Ms. Sosebee testified as to the manual processes associated with the ordering of complex services. Specifically, Ms. Sosebee testified as to the paperwork and ordering processes associated with complex services such as SmartRing®.

William M. Stacy:

Mr. Stacy, Assistant Vice President-Interconnection Operations for BST testified about the overall processes that BST has put in place to provide services to all CLECs. Mr. Stacy testified that BST has created an entire new officer level organization, interconnection operations, which is responsible for all operational aspects of provisioning and maintaining services for CLECs. Witness Stacy testified that BST has aggressively developed processes for handling the ordering, provisioning, maintenance and repair of all interconnection facilities, all resold services and unbundled network elements provided to CLECS. Mr. Stacy further testified that BST's electronic interface systems were designed and developed using the CLECS forecast of work volumes that the system would be required to handle. Mr. Stacy stated that the CLEC volume had not yet come close to approaching the system limits of any system, but that additional capacity could be made available immediately if needed. Mr. Stacy also stated that BellSouth had conducted extensive testing to assure that all systems worked appropriately at designated levels.

Keith Milner:

Mr. Milner, BST Director-Interconnection Operations, testified as to BST's abilities to provide access to certain services, UNES and functionality required by Sections 251 and 271 of the Act. Mr. Milner testified that he had recently led a team

of BST product managers and project managers on a mission to gather information to verify that BST had met the 14 point checklist items. Mr. Milner also testified as to the specific numbers of items ordered by CLECs in South Carolina and in BST's nine state region. Mr. Milner testified that where a CLEC had not ordered a certain checklist item, BST has demonstrated through end-to-end testing procedures that once the item is ordered, BST could provision, maintain and render a bill for such UNE or resold service. Mr. Milner testified that the evidence clearly demonstrates that BST provides, in a functionally available manner, each of the 14 point checklist items.

Robert C. Scheye:

Mr. Scheye, BellSouth Senior Director in Strategic Management, also testified as to how BST had met each of the 14 point competitive checklist items found in Section 252 and 271 of the Act. Mr. Scheye emphasized in his testimony that the customers of BST in South Carolina wish to have the same choices as customers in other parts of South Carolina, such as Myrtle Beach and Beaufort. In these areas of South Carolina, the customer may choose the same company for local and long distance service. Mr. Scheye also went on to testify that many of the items contained in the checklist have been provided by BST for a number of years, such as co-location. Finally, Mr. Scheye testified that the rates contained in BST's statement are cost-based. Mr. Scheye testified at length that the rates contained

in the statement were taken from rates contained in arbitration proceedings between BST and AT&T, FCC proxy rates and agreements entered into with CLECs. Mr. Scheye stated that all rates were within the range of cost information provided to this Commission by both AT&T and BST during the BellSouth-AT&T Arbitration proceeding, PSC Docket No. 96-378-C. Further, Mr. Scheye emphasized that the interim rates contained in the statement are to be adjusted following review by this Commission of additional cost studies which were made available on June 9, 1997. Finally, Mr. Scheye testified that the Act does not require permanent rates for checklist compliance.

James G. Harralson:

Mr. Harralson testified that BSLD would offer long distance service in South Carolina as soon as it was authorized to do so. Mr. Harralson stated that BSLD has applied for a certificate of authority and has filed with this Commission a proposed tariff containing rates 5% below AT&T's basic rates. Mr. Harralson testified that approval of BSLD to provide such service in South Carolina would generate over time substantial rate decreases to long distance customers in South Carolina and also generate a substantial amount of associated economic activity within the State.

Michael J. Raimondi:

Dr. Raimondi is an economist with the WEFA Group. Dr. Raimondi testified that WEFA had undertaken a study to establish

an estimate of the benefits associated with entry by BSLD into the long distance marketplace in South Carolina. Based on an assumption of a 25% decline in long distance rates over the first five years after entry, WEFA estimates that nearly 13,000 jobs would be created in the South Carolina economy and real gross state product would grow by nearly \$1.2 billion as a result of such entry by BSLD.

Frank Hefner:

Dr. Hefner testified as an economist familiar with the South Carolina economy. Dr. Hefner confirmed that the WEFA model was based on reliable assumptions and would produce reliable results with regard to the South Carolina economy.

William E. Taylor:

Dr. Taylor testified as an economist that the public interest favored approval of entry by BSLD into the long distance market in South Carolina. Dr. Taylor confirmed that studies have established a lock-step pattern of price increases in basic rate schedules undertaken by the major long distance providers over the past several years. Dr. Taylor testified that entry by BSLD in South Carolina would lead to substantial rate reductions of as much as 25% in the market price for long distance services in the first year. In terms of consumer surplus, this decrease in the market price of long distance service in South Carolina equates to a benefit of at least \$9 and as much as \$14 a month.



Melissa Closz:

Ms. Closz testified on behalf of Sprint. Ms. Closz summarized several instances where Sprint Metropolitan Networks, Inc. had encountered problems interconnecting with BST in the Orlando, Florida area. However, Ms. Closz admitted that Sprint had not filed any complaints with the Florida Public Service Commission or the FCC regarding its problems. Ms. Closz also testified that BST's interfaces did not support all the functionalities and capabilities that Sprint wanted. However, Ms. Closz acknowledged that the interfaces were being improved and that additional improvements were planned.

David E. Stahly:

Mr. Stahly testified on behalf of Sprint. Mr. Stahly testified that the public interest was against approval of BSLD to offer long distance service in South Carolina. Mr. Stahly testified that to allow BSLD to enter the market would remove any incentive from BST to accommodate local competition.

Don J. Wood:

Mr. Wood testified on behalf of AT&T and MCI. Mr. Wood testified that the rates for both UNE's and interconnection were not cost-based and, therefore, were not in compliance with the standards of the 1996 Act. Mr. Wood encouraged the Commission to institute proceedings to adopt a specific costing methodology and review all interim rates in accordance therewith.

Thomas R. Beard:

Dr. Beard testified on behalf of AT&T and MCI. Dr. Beard testified that the public interest in South Carolina was to delay entry into the long distance marketplace by BSLD. Dr. Beard justified the delay based on the potential harm to local competition. Dr. Beard testified that he believed that BST would not encourage local competition, that BST would foreclose the market for local access by long distance companies and the bundling of long distance and local service together by BST would either 1) constitute a barrier to entry by other competitors or 2) that BST would price the bundled services at a premium thus negating any consumer benefit from the bundled offering.

John Hamman:

Mr. Hamman testified on behalf of AT&T. Mr. Hamman testified that BST had not met numerous checklist items. Mr. Hamman testified that although BST and AT&T had agreed on performance measurements that results were just becoming available so that BST's checklist compliance had not yet been sufficiently measured. Mr. Hamman also testified that because competitors had not yet ordered quantities of several UNE's, BST's ability to provide them could not be confirmed. Finally, with regard to several checklist items, Mr. Hamman testified that BST was not providing AT&T capabilities that were required under its interconnection agreements in other states and thus did not meet additional checklist items.

Jay Bradbury:

Mr. Bradbury testified on behalf of AT&T. Mr. Bradbury commented on BST's OSS, principally focusing on the LENS interface. Mr. Bradbury provided numerous examples of how AT&T felt the OSS did not provide AT&T the useability and capabilities it needed in order to compete. Mr. Bradbury acknowledged that BST has modified LENS to provide functions requested by AT&T and that additional modifications requested by AT&T are forthcoming.

Allen G. Buckalew:

Mr. Buckalew testified on behalf of the South Carolina Consumer Advocate. Mr. Buckalew testified that the long distance market in South Carolina was not as competitive as it ought to be. However, Mr. Buckalew believed that BellSouth Long Distance should not be allowed to provide long distance services until local telephone markets in South Carolina faced effective competition. Mr. Buckalew also testified that the Commission should review the costs underlying the rates in the Statement.

James C. Falvey:

Mr. Falvey testified on behalf of ACSI. Mr. Falvey testified that ACSI has placed facilities in several metropolitan area of South Carolina, but is not providing facilities-based local exchange service. Mr. Falvey testified that ultimately ACSI intends to provide facilities-based local exchange service in South Carolina. However, Mr. Falvey conceded that ACSI has no current plan or commitment as to when local services may be

provided. In direct testimony adopted by Mr. Falvey, ACSI stated that it had no intent to compete for residence customers in South Carolina. Mr. Falvey also stated that ACSI has chosen to deploy switched local exchange services in other places such as Georgia, Texas, New Orleans and Baltimore before deploying in South Carolina. Mr. Falvey also testified concerning service problems encountered by ACSI in dealing with BST in Georgia.

Joe Gillan:

Mr. Gillan testified on behalf of AT&T, MCI and the South Carolina Competitive Carriers Association. Mr. Gillan testified as to the public interest of allowing BellSouth Long Distance to provide long distance service in South Carolina. Mr. Gillan testified as to his belief that long distance prices in South Carolina were not too high and would not be reduced after BellSouth Long Distance entered the market. Mr. Gillan further testified that the amount of UNEs provisioned by BST region-wide was insufficient to determine that BST had met its burden of opening its local market to competition. Therefore, Mr. Gillan concluded that it was premature for BellSouth Long Distance to provide long distance service in South Carolina.

IV. FINDINGS AND CONCLUSIONS

A. Review of Competition in South Carolina

1. Local Competition

At this point in time, almost eighteen months after the passage of the 1996 Act, there is no facilities-based local

competition in South Carolina. Furthermore, none of BST's potential competitors are taking any reasonable steps towards implementing any business plan for facilities-based local competition for business and residence customers in South Carolina. Notably absent in this proceeding was any testimony by any intervenor, other than ACSI, of any intent to ever compete on a facilities basis for local customers in South Carolina. The Commission notes that in the BST - AT&T Arbitration proceeding, AT&T testified at length that it had no plans for facilities-based competition in South Carolina and that such competition by any competitor of BST was years away.

ACSI, the only intervenor which stated that it had placed facilities in South Carolina, testified that it does not compete as a local service provider, but rather only as an access provider. While ACSI stated in response to cross-examination from MCI that it had an "intent" to compete in the future, ACSI testified that it had no business plan or firm commitment to place the necessary facilities in South Carolina to begin to provide such competition. Moreover, in its testimony, ACSI stated that it had no intent to compete for residence customers in South Carolina. Mr. Falvey, testifying on behalf of ACSI, stated that ACSI's decision not to compete in South Carolina is not related to any action on the part of BST, but rather its own business decision to deploy its capital in other areas, such as Georgia, Texas, New Orleans and Baltimore.

BST has voluntarily negotiated and submitted to this Commission in excess of 50 interconnection agreements with various other companies. This Commission has approved every such agreement submitted to it. This Commission has also approved over 10 applications for local service authority in South Carolina, including applications from AT&T, MCIMetro and Sprint. AT&T and BST successfully concluded their arbitration process before this Commission by submitting an interconnection agreement for approval, which approval was granted on June 20, 1997. In short, this Commission has taken every step available to it to encourage and to foster local competition in the State of South Carolina.

Other than vague allegations, no intervenor has provided any substantive proof that BST has taken any action to prevent or to retard the development of local competition in South Carolina. In fact, the testimony in this proceeding established that BST has devoted substantial resources involving the efforts of hundreds of employees and the expenditure of hundreds of millions of dollars to meet or to exceed the requirements of the 1996 Act to open its local market to competition. Obviously, the same processes, systems, personnel and facilities are used by competitors in other areas in BellSouth's region as a basis for vigorous local competition. Therefore, this Commission must conclude that BellSouth has met the burden of establishing that its local market in South Carolina is open to competition.

## **2. Long Distance Competition**

In 1982, this Commission became the first state commission in this country to approve a request for authority to provide competitive long distance service in the State of South Carolina. Since then, this Commission has established a history of encouraging competition in all long distance markets in South Carolina. In fact, this Commission has approved over 400 certificates for long distance authority.

This Commission has been greatly concerned over the last several years as the major long distance providers have instituted several rounds of lock-step price increases in their basic rate schedules. Furthermore, this Commission has never been able to establish whether or not reductions in intrastate access charges have been passed through to long distance customers. Several witnesses in this proceeding have established that for large business customers, in particular, the long distance market is competitive. However, many residence customers who do not subscribe to discount plans or who subscribe to discount plans based on basic rate schedules have seen their long distance rates increase over the past few years.

### **B. Overview of the Act**

The Act is a landmark bill in the history of telecommunications. Prior to its enactment, the Modification of Final Judgment barred Regional Bell Operating Companies ("RBOCs") from providing interLATA service, and exclusive state franchises

or grants of authority protected RBOCs from competition in their local service territories. The 1996 Act intended "to provide for a procompetitive, deregulated national policy framework designed to accelerate rapidly private sector deployment of advanced telecommunications and information technologies and services to all Americans by opening all telecommunications markets to competition." S. Rep. No. 230, 104th Cong., 2d Sess. 1 (1996) ("Conference Report") (emphasis supplied). Congress debated for many months the best way to open all telecommunications markets, and the Act that emerged reflects a balanced set of rules designed to govern comprehensively both the opening of the local markets and the opening of the in-region interLATA markets to competition by the RBOCs.

The first step was opening local telecommunications markets. See, 142 Cong. Rec. S688 (daily ed. Feb. 1, 1996) (statement of Sen. Hollings) (Bell companies must "open their networks to competition prior to their entry into long distance"). Congress set out specific requirements for opening local markets in Sections 251-253 of the Act and made entry into long distance under Section 271 conditional upon the BOCs doing so. 141 Cong. Rec. S8138 (daily ed. June 12, 1995) (statement of Sen. Kerrey); see, 141 Cong. Rec. S8152-8153 (daily ed. June 12, 1995) (statement of Sen. Breaux) (BOCs allowed to sell long distance and required to open local exchange markets).



Congress did not simply remove the legal barriers to entry and leave new entrants to fend for themselves against entrenched incumbents.<sup>1</sup> To assist new entrants into the local market, Congress went to extraordinary lengths to ensure that new entrants will have available to them -- in addition to facilities of their own -- a set of functions, capabilities and services from the established incumbent's network to begin providing competing local exchange service. The complete set of functions, capabilities and services arise out of a combination of obligations imposed on incumbent LECs under Section 251 (a)(b) and (c).<sup>2</sup> As stated by the Eighth Circuit Court of Appeals:

The Act effectively opens up local markets by imposing several new obligations on the existing providers of local telephone service in those markets. . . . Among other duties, the Act requires incumbent LECs (1) to allow other telecommunication carriers (such as cable television companies and current long distance providers) to interconnect with the incumbent LEC's existing local network to provide competing local telephone service (interconnection); (2) to provide other telecommunication carriers access to elements of the incumbent LEC's local network on an unbundled basis (unbundled access); and (3) to sell to other telecommunication carriers, at wholesale rates, any telecommunications service that the incumbent LEC provides to its retail customers (resale).

Iowa Utilities Bd. v. FCC, 109 F.3d 418, 421-22 (8th Cir. 1996).

<sup>1</sup> Congress removed and prohibited any legal barriers to local competition in Section 253 of the Act.

<sup>2</sup> Section 251(a) and (b) set forth obligations imposed on all telecommunications carriers and all local exchange companies (not just incumbent LECs). The duties imposed on all telecommunications carriers and local exchange carriers, as well as incumbent LECs, include the duties to provide number portability, dialing parity, access to telephone numbers, operator services, directory assistance and directory listings, access to rights of way and reciprocal compensation for the transport and termination of telecommunications. Each of these duties has a place on the 14-point competitive checklist set forth in Section 271(c)(2).